



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

NOV 2 2009

Chris Knopp
Forest Supervisor
Apache-Sitgreaves National Forest
P.O. Box 640
Springerville, AZ 85938

Subject: Final Environmental Impact Statement (FEIS) for the Black River Exchange
(CEQ# 20090335)

Dear Mr. Knopp:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA previously reviewed the Draft Environmental Impact Statement (DEIS) for the Black River Exchange and provided comments on July 9, 2008. We rated the DEIS as Lack of Objections (LO) and agreed that the acquisition of the non-federal lands identified would add vital habitat for loach minnow, spikedace, and the Apache Trout, as well as wetlands and floodplains containing significant aquatic and riparian habitats associated with the mainstream of the West Fork of the Black River and the Blue River. However, we also offered a few recommendations for strengthening the FEIS. Unfortunately, the FEIS shows no record of our comment letter, which we have attached for your reference.

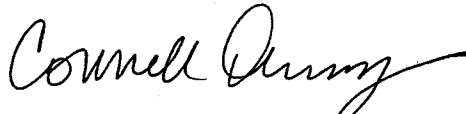
We note that some of our recommendations were adopted, such as maps illustrating the location of the five parcels to be exchanged and a listing of all documents referenced within the FEIS. Recommendations that were not incorporated were provided to improve clarity of the document, rather than to express environmental concerns. These recommendations included the need for a succinct and thorough discussion of the challenge and court order regarding the U.S. Forest Service Environmental Assessments and Finding of No Significant Impact, and a description of how the USFS subsequently addressed the outstanding issues in the EIS. We also recommended the FEIS incorporate the previous Environmental Assessments by reference.

It is concerning that the comment letter provided to USFS from our agency was not included in Appendix C, and we question whether there might be other comment letters that may have also been inadvertently missed. We hope that the Apache-Sitgreaves

National Forest will address recommendations from EPA regarding future NEPA actions.

We appreciate the opportunity to review this FEIS. If the Record of Decision is revised, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me at 415-972-3846, or Tom Kelly, the lead reviewer for this project. Tom can be reached at 415-972-3856 or kelly.thomasp@epa.gov.

Sincerely,

for 
Kathleen M. Goforth, Manager
Environmental Review Office

Enclosure: EPA letter to USFS (Bruce Buttrey), dated July 9, 2008



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

July 9, 2008

Mr. Bruce Buttrey
Natural Resource Specialist
U.S. Forest Service
Springerville Ranger District
165 Mountain Avenue
P.O. Box 760
Springerville, AZ 85938

Subject: Draft Environmental Impact Statement for Proposed Black River Exchange [CEQ# 20080229]

Dear Mr. Buttrey:

The U.S. Environmental Protection Agency (EPA) has reviewed the U.S. Forest Service's (USFS) Draft Environmental Impact Statement (DEIS) for the Proposed Black River Exchange. Our review and comments are provided pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act (CAA).

From the perspective of environmental stewardship, we have no objection to the Proposed Action which authorizes a land-for-land exchange resulting in federal acquisition of 396 acres of non-federal land in the Apache National Forest (ANF) and conveyance of 338 acres of federal land north of Greer in the ANF. The non-federal lands would add vital habitat for loach minnow, spokedace, and the Apache Trout, along with the acquisition of wetlands/floodplains containing significant aquatic and riparian habitats associated with the mainstream of the West Fork of the Black River and the Blue River. Accordingly, we have rated the DEIS as Lack of Objections (LO) (see the enclosed "Summary of EPA Rating Definitions").

We would like to offer a few recommendations for strengthening the Final Environmental Impact Statement (FEIS) so that the public and the decision maker(s) will be better informed about the history of the Black River Land Exchange and the actions which led to the preparation of this document. The USFS previously completed two Environmental Assessments (EA) and Findings of No Significant Impact (FONSI) for the Black River Land Exchange in 2004 and in 2005. The Greer Coalition and the Center for Biological Diversity filed a Complaint against the USFS on January 31, 2006. On February 28, 2007, the USFS was remanded to complete the DEIS as a result of litigation brought by the two groups. We recommend that the USFS describe and reference the Complaint (January 31, 2006) and the Court Order (February 28, 2007); clarify how the main issues were resolved by the Court; and describe how the USFS subsequently addresses these issues within the EIS. We believe that disclosing this information in a succinct and thorough manner will assist the public and the decision maker in their review of the

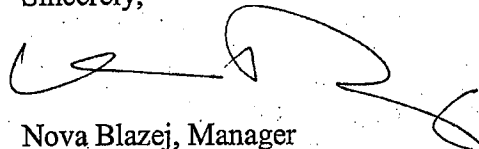
document and will enable them to make a more informed decision about the project. We recommend that the FEIS incorporate by reference the previous EAs and reference them within the document.

We also recommend that the FEIS include a map illustrating the location and proximity of the five parcels of land to be exchanged. Based on the current figures in the DEIS, it is difficult to determine the proximity of the parcels between each other and, on a broader scale, their overall location within the ANF and within Arizona. We also recommend that the location of the Spade Ranch and Crosby Acres subdivision be shown on at least one figure.

Finally, we note that the DEIS refers to parenthetical references of Project Record documents, such as Doc. 342. These references contains useful information, yet the DEIS does not provide basic bibliographical information about these documents. We recommend that the FEIS include a bibliography listing all Project Record documents that are referenced within the FEIS. If this information is available on-line, an Internet address should also be provided. Please provide a brief summary of the document if it contains vital information included in the FEIS in response to litigation. This will assist the public and decision maker in their review of the project.

We appreciate the opportunity to review this DEIS. When the FEIS is released for public review, please send one hard copy and one CD ROM to this office at the same time it is officially filed with our Washington D.C. office. If you have any questions, please contact me at (415) 972-3846 or Ann McPherson, the lead reviewer for this project, at (415) 972-3545 or at mcpherson.ann@epa.gov.

Sincerely,



Nova Blazej, Manager
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions

SUMMARY OF EPA RATING DEFINITIONS¹

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACTS OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impact that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

"Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

¹ From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment.